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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 Larry M. Banks,

Case No. 2:23-cv-01629-GMN-DJA

7 Plaintiffs,

**Order**

8 v.

9 Albertson's Deal & Delivery; and Vivek  
Sankaran,

10 Defendants.  
11

12 Pro se Plaintiff Larry M. Banks filed an application to proceed *in forma pauperis*. (ECF  
13 No. 1). However, Plaintiff's application is missing certain information. The Court thus denies  
14 Plaintiff's application without prejudice.

15 **I. Discussion.**

16 Under 28 U.S.C. § 1915(a)(1), a plaintiff may bring a civil action "without prepayment of  
17 fees or security therefor" if the plaintiff submits a financial affidavit that demonstrates the  
18 plaintiff "is unable to pay such fees or give security therefor." The Ninth Circuit has recognized  
19 that "there is no formula set forth by statute, regulation, or case law to determine when someone  
20 is poor enough to earn [*in forma pauperis*] status." *Escobedo v. Applebees*, 787 F.3d 1226, 1235  
21 (9th Cir. 2015). An applicant need not be destitute to qualify for a waiver of costs and fees, but  
22 he must demonstrate that because of his poverty he cannot pay those costs and still provide  
23 himself with the necessities of life. *Adkins v. E.I DuPont de Nemours & Co.*, 335 U.S. 331, 339  
24 (1948).

25 The applicant's affidavit must state the facts regarding the individual's poverty "with  
26 some particularity, definiteness and certainty." *United States v. McQuade*, 647 F.2d 938, 940  
27 (9th Cir. 1981) (citation omitted). If an individual is unable or unwilling to verify his or her  
28 poverty, district courts have the discretion to make a factual inquiry into a plaintiff's financial

1 status and to deny a request to proceed *in forma pauperis*. See, e.g., *Marin v. Hahn*, 271  
2 Fed.Appx. 578 (9th Cir. 2008) (finding that the district court did not abuse its discretion by  
3 denying the plaintiff's request to proceed *in forma pauperis* because he "failed to verify his  
4 poverty adequately"). "Such affidavit must include a complete statement of the plaintiff's  
5 personal assets." *Harper v. San Diego City Admin. Bldg.*, No. 16-cv-00768 AJB (BLM), 2016  
6 U.S. Dist. LEXIS 192145, at \*1 (S.D. Cal. June 9, 2016). Misrepresentation of assets is sufficient  
7 grounds for denying an *in forma pauperis* application. Cf. *Kennedy v. Huibregtse*, 831 F.3d 441,  
8 443-44 (7th Cir. 2016) (affirming dismissal with prejudice after litigant misrepresented assets on  
9 *in forma pauperis* application).

10 On his application, Plaintiff claims to make no money from employment, have no bills,  
11 have no property of any kind, have no dependents, and to have no debts. On the docket, Plaintiff  
12 includes an address. The Court takes judicial notice of the fact that public records reveal that the  
13 address appears to be an apartment building. Plaintiff does not provide any details in the  
14 application regarding how he pays rent, how he pays utilities or other bills, or how he lives  
15 considering his claim to have no money and no bills. The Court finds that Plaintiff has omitted  
16 information from the application. As a result, the Court cannot determine whether Plaintiff  
17 qualifies for *in forma pauperis* status.

18 The Court will give Plaintiff one opportunity to file a complete *in forma pauperis*  
19 application. The Court further orders that Plaintiff may not respond with "not applicable" in  
20 response to any question without providing an explanation for each of the questions. Plaintiff  
21 also may not leave any questions blank. Plaintiff must describe each source of money that he  
22 receives, state the amount he received, and what he expects to receive in the future.

23 The Court denies Plaintiff's *in forma pauperis* application without prejudice. The Court  
24 gives Plaintiff 30 days to file an updated application. Plaintiff must fully answer all applicable  
25 questions and check all applicable boxes. Plaintiff may alternatively pay the filing fee in full.  
26 Since the Court denies Plaintiff's application, it does not screen the complaint at this time.

1           **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*  
2 *pauperis* (ECF No. 1) is **denied without prejudice**.

3           **IT IS FURTHER ORDERED** that Plaintiff has until **November 16, 2023** to file an  
4 updated application to proceed *in forma pauperis* as specified in this order or pay the filing fee.  
5 Failure to timely comply with this order may result in a recommendation to the district judge that  
6 this case be dismissed.

7           **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to mail Plaintiff  
8 a copy of this order and of the Long Form application to proceed *in forma pauperis* and its  
9 instructions.<sup>1</sup>

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11           DATED: October 17, 2023

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14 DANIEL J. ALBREGTS  
15 UNITED STATES MAGISTRATE JUDGE  
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28 <sup>1</sup> This form and its instructions can also be found at <https://www.nvd.uscourts.gov/court-information/forms/> under Code AO 239.